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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,062

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Jay S. Walker

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22927

7590

03/12/2012

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EXAMINER

PIERCE, DAMON JOSEPH

ART UNIT

PAPER NUMBER

3718

MAIL DATE

DELIVERY MODE

03/12/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/682,062	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> DAMON PIERCE	<b>Art Unit</b> 3718	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2012.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 49-68 and 70 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 49-68 and 70 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Response to Amendment*

1. The present communication responds to the Amendment of 1/17/12. By this communication, claims 49, 59, and 70 were amended. The amendments did not add new matter. Claims 49-68 and 70 are pending. The rejection(s) are as stated.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 49, 50, 59, 60, 53, 54, 57, 63, 64, 67, and 70 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pub. # 2002/0116615 to Nguyen et al (herein referred to as Nguyen '615).

Regarding claims 49, 59, and 70. Nguyen '615 discloses **a non-transitory computer-readable medium storing instructions, which when read by a processor of a computing device** (pargs. 38, 41, 42, and 44), cause the processor to:

**receive a request to play the game, the game being operable either with the particular feature being enabled during play of the game or without the particular feature being enabled during play of the game** (pargs. 4, 5, 18, 24, 27, 35, and 114, discloses games of chance may be played with additional features such a bonus game);

(as required by claim 59) **recognizing a game playable on a gaming device, the game being operable either with the particular feature being enabled during play of the game or without the particular feature being enabled during play of the game** (pargs. 24, 35, and 114);

**determine that the request includes a request to play the game with the particular feature enabled** (pargs. 4, 5, 18, 24, 114, and 117);

**prior to allowing play of the game with the particular feature enabled, determine whether an authorization code for enabling play of the game with the particular feature enabled has been received from a regulatory authority** (pargs. 16-18, 36, and 99, discloses gaming software authorized by software authorization agent, i.e., game license is required in order to play game);

**verify an expiration condition for the authorization code** (pargs. 16-18, and 99, discloses license expiration data); and

**only if the expiration condition has not yet been met, allow play of the game with the particular feature enabled, otherwise outputting a message indicating that the game is currently only available for play without the particular feature enabled** (pargs. 23 and 36, discloses approval or denial of gaming software request, i.e., the gaming software corresponding to the particular feature is denied, thus, the game is presented without the particular feature).

50, 60, Nguyen '615 discloses wherein the expiration condition is a date on which the authorization code is no longer valid (see parg. 103).

53, 63, Nguyen '615 discloses further comprising: prior to allowing play of the game, confirming via the processor that an authorization code disallowing

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play of the game with the particular feature has not been received from the regulatory authority (see pargs. 112-115, lacking clear distinguishing features, where games require approval from regulatory entity prior to allowing players to participate in game play).

54, 64, Nguyen '615 discloses further comprising: updating, via the processor, data corresponding to the expiration condition after allowing play of the wagering (Fig. 6, 635, and parg. 103).

57, 67, Nguyen '615 discloses further comprising: requesting, via the processor, a new authorization code from the regulatory authority if the expiration condition has been met (parg. 99).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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6. Claims 51-52, 55-56, 58, 61-62, 65-66, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. # 2002/0116615 to Nguyen et al (herein referred to as Nguyen '615) in view of US 2002/0071557 to Nguyen (herein referred to as Nguyen '557).

Regarding Claims 51, 52, 55, 56, 61, 62, 65, 66, Nguyen '557 discloses (as required by claims 51, 61) wherein the expiration condition is a maximum number of plays of the game for which the authorization code is valid (lacking clear distinguishing features, pargs. 18, 43, 48, 69, discloses a per-use license, and parg. 76, discloses game usage data); (as required by claims 52, 62) wherein the expiration condition is a maximum sum of wagers for which the authorization code is valid (parg. 76 discloses license expiration associated with game usage data, where in this case, the game usage data corresponds to a sum of wagers since each game has an required wager amount required to play, thus, the game usage data may include total wager amounts as disclosed in US Pat. 5,470,079 to LeStrange et al); (as required by claims 55, 65) wherein updating data comprises updating a sum of wagers placed on the game based on a wager currently placed on the game (lacking clear distinguishing features, parg. 76, discloses game usage data including the number of times a gaming license has been used, including records of wagering and game play totals); (as required by claims 56, 66) updating data comprises updating a number of plays of the game played based on a current play of the game (pargs. 69 and 73, discloses game usage data associated with license expiration data); and (as required by claims 58, 68) purchasing the authorization code from the regulatory authority (see pargs. 20, 48, 69, and 77, discloses gaming license associated with billing data).

The gaming system of Nguyen '615 would have motivation to use the teachings of Nguyen '557 in order to ensure game manufacturers continually receive monetary compensation based on use of their respective games.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the in to modify the gaming system of Nguyen '615 with the teachings of Nguyen '557 in order to generate a continuous stream of revenue for game manufacturers as long as their game remains relatively popular.

### ***Response to Arguments***

7. Applicant's arguments filed 1/17/12 have been fully considered but they are not persuasive.

8. On pps. 6-8, Applicant submit that Nguyen fails to teach or suggest the following limitations of the claims as follows: With respect to independent claim 49, 59 and 70 as amended herein (and thus all claims dependent therefrom and including the same limitations): (1) prior to allowing play of the game with the particular feature enabled, determining whether an authorization code for enabling play of the game with the particular feature enabled has been received from a regulatory authority; and (2) only if the expiration condition [associated with an authorization code received from a regulatory authority] has not yet been met, allowing play of the game on the particular gaming device with the particular feature enabled, otherwise outputting a message indicating that the game is" currently only available for play without the particular feature enabled. However, the Examiner respectfully disagrees. Regarding issues (1), Nguyen (see pargs. 16-18, 36, and 99) discloses game licenses are required to allow game play of any gaming software, for example, a player would like to play a bonus game on

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gaming device, in this case, the gaming device is made to play the bonus game in a gaming establishment (e.g., a casino) yet must have a game license on the game device in order to provide the bonus game to patrons in the casino. Note, the authorization code is interpreted as the game license. Thus, prior to the casino allowing patrons to play the bonus game on the gaming device, the casino is required to obtain authorization via a game license. Regarding issue (2), Nguyen (see pargs. 23 and 36) discloses approval or denial of gaming software request, i.e., the gaming software corresponding to the particular feature is denied, in this case, the game is presented without the particular feature, please note, the particular feature enabled is interpreted as a bonus game. For example, each game license expires at some point (see parg. 99), thus, when the game license has not expired a patron is allowed to play an associated game (e.g., a bonus game), otherwise, one of two things will occur when the game license has expired, (i) a player will receive a denial of access to the bonus game (see parg. 36), or (ii) the game device will simply display game play without the bonus game, where both instances are interpreted as outputting a message indicating that the game is currently only available for play without the particular feature enabled.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the



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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAMON PIERCE whose telephone number is (571)270-1997. The examiner can normally be reached on 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Damon Pierce/  
Patent Examiner, Art Unit 3718

/Peter DungBa Vo/  
Supervisory Patent Examiner, Art Unit 3718